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09/997,495	11/19/2001	Bert E. Holland	22081	5184

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EXAMINER

JACOBSON, TONY M

ART UNIT

PAPER NUMBER

2644

14

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,495

Applicant(s)

HOLLAND, BERT E.

Examiner

Elizabeth A McChesney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-62 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 44-46 and 48-62 is/are rejected.
- 7) ☒ Claim(s) 47 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Claims 44-62 are now pending in the present application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 44-46 and 49-54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kloss (US Patent No. 5,046,104) in view of Park (US Patent No. 6,073,770).

Regarding **claim 44**, Kloss discloses a portable loudspeaker, which includes a carrying case (see figure 1), a storage compartment 64 for example for storing a portable compact disc player or a radio receiver, etc (col. 4-lines 2-5) and at least one loudspeaker 50 (see figure 2). Kloss further discloses reproduction of low frequencies using the enclosed interior space of the closed case as a loudspeaker enclosure (col. 2-lines 7-10), which reads on the claimed limitation. Kloss further discloses an outside wall 20 and 22 and then therefore the interior wall becomes moveable when positioned which is upon opening the carrying case in which it exposes the storage compartment

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64 and speaker 53. This can be shown in figure 4, which shows when the interior wall is moved (opened) the storage compartment is created and various items can be stored. When the carrying case is closed the case itself is considered the loudspeaker enclosure. Kloss fails to disclose the specifics pertaining to the carrying case materials of construction. However, the Examiner maintains that a standard briefcase has multiple layers "sandwiched" together providing an outer layer and an inner layer as shown in Park. The claim merely discloses an outer layer material with a "maximum thickness of 4 mm" and an inner layer of material with a minimum thickness of 4 mm, which means that there is a range of less than 4mm for the outer layer and a thickness more than 4 mm, wherein standard briefcases fall into that range on some level of thickness. Park discloses a sandwich construction providing layers of material including air pads outer and inner layer of skin (col. 2-lines 38-40). Park further discloses an air pad, for high damping, shock-absorbing function, comprises of an air impermeable outer skin and an air impermeable inner skin, which reads on leather, a very common material used in briefcases and further wherein leather has a high modulus elasticity. It would have been obvious for one of ordinary skill in the art to include a loudspeaker as disclosed by Kloss in a briefcase that provided high damping characteristics provided by the sandwiched materials as disclosed by Park to construct a briefcase/speaker box.

Regarding **claim 45**, Kloss in view of Park discloses many multiple layers of construction. The claim does not specifically disclose how the material are layered in regard to one another but that only there are a first, second and third layer (col. 2-lines 50-60).

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Regarding **claim 46**, Park discloses different materials, such as padding, air permeable skin, shock absorbing foaming, which would of course all have

Regarding **claim 49**, Kloss discloses the movable interior wall forms the lid to the storage compartment, which can be opened or closed. It is inherent that when the carrying case is opened the interior wall is moved and the storage compartment is exposed. The second half of the carrying case is the lid to the storage compartment when the case is closed the interior wall is closed which therefore forms the lid. When the case is opened the interior wall is moved and the lid is lifted.

Regarding **claim 50**, Kloss discloses everything claimed as applied above (see claim 44). Kloss further discloses the carrying case is formed as a matable pair of substantially rigid shells (col. 2-lines 4-5) and further that the shells 20 and 22 are thermoplastically molded from light weight material and connected by means of a claims, bolts or other ways not shown (col. 2-lines 66-68 and col. 3-line 1) in which, it is inherent as most briefcases are connected by hinges, and therefore reads on the claimed limitation.

Regarding **claim 51**, Kloss discloses everything claimed as applied above (see claim 50). The connecting pieces, hinges, for example are separable and which are inherent in standard briefcases or carrying case, are more specifically pointed out as engageable with corresponding elements for releasably coupling the shells (col. 2-line 68 and 3-line 1).

Regarding **claim 52**, Kloss discloses the movable interior wall forms the lid to the storage compartment, which can be opened or closed. It is inherent that when the

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carrying case is opened the interior wall is moved and the storage compartment is exposed. The second half of the carrying case is the lid to the storage compartment when the case is closed the interior wall is closed which therefore forms the lid. When the case is opened the interior wall is moved and the lid is lifted.

Regarding **claim 53**, Kloss discloses the lid as a pan with a deep bottom as the other half of the briefcase, the side opposite the speaker and storage compartment (side that matable with figure 4 but is not shown). The lid when open exposes the storage compartment and when closed provides a loudspeaker enclosure.

Regarding **claim 54**, Kloss in view of Park discloses everything claimed as applied above (see claim 44). Park further discloses the case is lined with shock absorbing foam pieces which would protect the items stored inside as well as providing damping for the acoustic waves (col. 2-lines 50-60).

Claim Rejections - 35 USC § 103

4. **Claims 55-60** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kloss (US Patent No. 5,046,104) in view of Park (US Patent No. 6,073,770), in further view of Molay (US Patent No. 4,052,561).

Regarding **claim 55**, Kloss in view of Park discloses everything claimed as applied above (see claim 23). Kloss in view of Park fails to specifically disclose or fairly suggest an interface for connections. However, Molay discloses a plate 38 for connections, such as a microphone connection 42 and an auxiliary connection 44 (see figure 2). It would have been obvious for one of ordinary skill in the art at the time the

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invention was made to include a plate with connections to allow a portable device to be more compatible and versatile with various other audio components.

Regarding **claim 56**, Kloss in view of Park discloses everything claimed as applied above (see claim 23). Kloss fails to specifically disclose or fairly suggest a volume potentiometer. However, Molay who also discloses a portable loudspeaker in a carrying case provides a volume control potentiometer 50 (col. 2-lines 62-63).

Therefore it would have been obvious for one of ordinary skill at the time the invention was made to include a volume potentiometer as taught by Molay in the device taught by Kloss in order to control the volume to the desired setting.

Regarding **claim 57**, Kloss in view of Park discloses including an amplifier, 62 (col.3-lines 65-67), which is well known in the art. Molay also discloses an amplifier 81 as well, shown in figure 5.

Regarding **claim 58**, Molay discloses a plate 38 for including a microphone connection 42 (see figures 1 and 2). It would have been well known in the art at the time the invention was made to include a microphone connection in order to provide a portable public address system to be used in various locations such as meetings, conventions, parties, tours etc. (col. 1-lines 35-41).

Regarding **claims 59 and 60**, Kloss in view of Park discloses everything claimed as applied above (see claim 1). Kloss fails to specifically disclose or fairly suggest battery. However, Molay discloses the use of batteries or an AC plug (col. 1-lines 64-67), which is obvious that it could be attached to an external power source of any type.

Claim Rejections - 35 USC § 103

5. **Claims 48, 61 and 62** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kloss (US Patent No. 5,046,104) in view Park (US Patent No. 6,073,770) in view of Molay (US Patent No. 4,052,561) and in further view of Leonovich Jr. (US Patent No. 4,939,912).

Regarding **claims 48 and 61**, Kloss in view of Park in view of Molay fails to specifically disclose or fairly suggest sending and receiving signals by means of a radio. However, Leonovich, Jr. discloses a portable cooler with an audio receiver and audio system shown in figure one. Leonovich, Jr. further discloses a portable carrying case with speakers and a storage compartment, which includes a radio. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include a radio in the system disclosed in Kloss in order to provide a portable carrying case compatible with various other audio systems and would truly provide a portable audio system with storage capacity. It would have been obvious to one of ordinary skill in the art to use a remote for the radio as they are well known in the art.

Regarding **claim 62**, It would have been obvious to one of ordinary skill in the art to include mounting means for mounting to stand or wall wherein it would merely consist of some type of adhesive or bracket with are both well known in the art for mounting security.

Response to Arguments

6. Applicant's arguments with respect to newly added claims 44-62 have been considered and the finality of the rejection has been withdrawn as previously objected claims have been added to the independent claim. Upon further examination the case is still not in condition for an allowance. The claim discloses a carrying case with at least one loudspeaker enclosed as well as a storage compartment, which is shown by Kloss in the rejection above. Further the construction of the briefcase is of a standard briefcase that as a layer outside as well as inside. The Examiner maintains that having a maximum thickness of 4 mm, implies that the layer can be less than 4 mm and therefore standard briefcases fall into some range of 0-4 mm in thickness. The claim also discloses a sandwich construction wherein standard briefcases have multiple layers of material layered and often covered by an air permeable outer skin, which reads on leather, and further reads on a material of high modulus of elasticity. The claim merely reads on standard briefcases that have a storage compartment and speaker within as rejected above by Kloss in view of Park.

Conclusion

7. Claim 47 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Crane et al. (US Patent No. 5,553,097) discloses a portable communication system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. McChesney whose telephone number is (703) 308-4563. The examiner can normally be reached Monday – Friday, 8:00 am – 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

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EAM *gan*
July 30, 2004


FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER